IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4636 of 1990

For Approval and Signature:

HON'BLE MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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RAJNIKANT K SETHIA

Versus

FOOD CORPORATION OF INDIA

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Appearance:

1. Special Civil Application No. 4636 of 1990

MR MB GANDHI for Petitioner

MR YF MEHTA for Respondents No. 1-3

Respondent No. 4 :: Served

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CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 15/09/2004

ORAL JUDGEMENT

Heard the learned advocates.

The petitioner, an Assistant Grade-II in the Food Corporation of India, the respondent no.1 herein [hereinafter referred to as, `the Corporation'] challenges the order of reversion from Assistant Grade-II to Assistant Grade-III made on 2nd January, 1973.

The petitioner was appointed as a Junior Clerk in the Government of India in its department of Food on 28th December, 1967. On satisfactory completion, the period of probation was terminated with effect from 27th December, 1969. By order dated 13th January, 1970, the petitioner was allowed to continue as Junior Clerk. By order dated 26th March, 1970, the petitioner was promoted as Assistant Grade-II on ad hoc and temporary basis. The order of promotion specified that the promotions were made out of turn in accordance with the option/seniority. By the impugned order dated 2nd January, 1973, the petitioner came to be reverted as Assistant Grade III as the petitioner was not selected by the Zonal Promotion Committee. The petitioner was once again promoted as Assistant Grade-II by order dated 5th June, 1974.

The petitioner now challenges the aforesaid order of reversion dated 2nd January, 1973. Learned advocate Mr. Gandhi has submitted that the respondent no. 4 who was junior to the petitioner was promoted to the post of Assistant Grade-I in the year 1986. The petitioner being senior to the respondent no. 4, he is entitled to promotion as Assistant Grade-I from the year 1986 and to all consequential benefits.

The petition is wholly misconceived. The petitioner was reverted to the post of Assistant Grade III by order dated 2nd January, 1973 on the ground of unsuitability. The said order was not challenged by the petitioner at the relevant time. The challenge to the said order in the present petition, after 17 years is not sustainable. The said challenge requires to be rejected on the ground of delay, latches and acquiescence. The contention that the respondent no. 4 was junior to the petitioner is also misconceived. In view of the impugned order of reversion and later promotion of the petitioner as Assistant Grade II, the petitioner lost his seniority over the respondent no. 4 right in the year 1973/1974. The petitioner, therefore, now cannot claim seniority over the respondent no. 4 and further promotion on the basis of such promotion granted to the respondent no. 4.

Even the said claim made in the present petition is grossly belated.

No other contention is raised before me. The petition is dismissed with costs. Rule is discharged.

{Miss R.M Doshit, J.}

Prakash*